

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3 **DREW RIBAR,**
4 Plaintiff, Pro Se,
5 v.
6 **WASHOE COUNTY, NEVADA, et al.,**
7 Defendants.

8
9 **Case No. 3:24-cv-00526-ART-CSD**
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11 **PLAINTIFF'S REVISED RESPONSE TO DEFENDANTS' MOTION**
12 **REGARDING DISCOVERY DISPUTE – RECORDING DEPOSITIONS**

13 (ECF No. 90)
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15 **I. INTRODUCTION**

16 Defendants' motion (ECF No. 90) to prohibit audiovisual recording of depositions lacks legal
17 merit and should be denied. Plaintiff, a pro se journalist, seeks to record depositions in
18 accordance with Fed. R. Civ. P. 30(b)(3)(A) personally using a static camera on a tripod. The
19 purpose is post-litigation publication consistent with the protective order already in place (ECF
20 No. 89). Defendants fail to meet their burden under Rule 26(c) to demonstrate specific harm and
21 instead offer speculative and contradictory arguments aimed at suppressing Plaintiff's First
22 Amendment rights and interfering with the public interest in judicial transparency.

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24 **II. LEGAL STANDARD**
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1 Under **Fed. R. Civ. P. 30(b)(3)(A)**, a party may record a deposition by audiovisual means,
2 provided they serve prior written notice. The **burden rests with the opposing party** to obtain a
3 protective order under **Fed. R. Civ. P. 26(c)** by showing “good cause” through specific facts, not
4 speculative harm. *Cipollone v. Liggett Group, Inc.*, 785 F.2d 1108, 1121 (3d Cir. 1986).

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7 **III. ARGUMENT**

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9 **A. Defendants Have Not Shown Good Cause Under Rule 26(c)**

10 Defendants offer no specific evidence of harm. Plaintiff has no history of abuse and is compliant
11 with the protective order. Their reliance on *AFT Michigan v. Project Veritas* is misplaced, as that
12 case involved deceptive tactics not present here.

14 **B. Privacy and Confidentiality Concerns Are Already Addressed**

16 The existing **protective order (ECF No. 89)** includes redaction provisions and confidentiality
17 safeguards. Courts require protective orders to be narrowly tailored and not infringe First
18 Amendment rights. *Palmieri v. State of N.Y.*, 779 F.2d 861, 866 (2d Cir. 1985); *Seattle Times Co.*
19 v. *Rhinehart*, 467 U.S. 20, 33 (1984).

21 **C. Plaintiff’s Proposed Recording Method Is Reasonable and Non-Disruptive**

23 Plaintiff will use a **tripod-mounted camera** in a fixed position, which complies with **Fed. R.**
24 **Civ. P. 30(b)(5)** and will not distract or intimidate deponents. Courts routinely accept such
25 practices in pro se and journalistic contexts.

27 **D. First Amendment and Public Interest Weigh in Favor of Recording**

1 As a journalist, Plaintiff's right to publish deposition footage post-litigation is protected. See
 2 *Fordyce v. Seattle*, 55 F.3d 436 (9th Cir. 1995); *Glik v. Cunniffe*, 655 F.3d 78 (1st Cir. 2011);
 3 *Irizarry v. Yehia*, 38 F.4th 1282 (10th Cir. 2022); *Lozman v. City of Riviera Beach*, 585 U.S. 115
 4 (2018). The public interest in accountability justifies audiovisual documentation. See also
 5 *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 124 (2d Cir. 2006). The Supreme Court's
 6 reasoning in *New York State Rifle & Pistol Ass'n v. Bruen*, 142 S. Ct. 2111 (2022), further
 7 underscores that government-imposed restrictions must be rooted in history and tradition. No
 8 such precedent exists to ban audiovisual recording of discovery.
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 11 Defendants' ally, **Build Our Center**, routinely records its events and notifies attendees—yet
 12 seeks to deny Plaintiff the same rights. This contradiction further weakens their argument.
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14 **E. Defendants' Obstruction and Delay Weigh Against Their Position**

15 Plaintiff served notice on April 28, 2025, of his intent to record depositions. Defendants waited
 16 until May 3, 2025, to object, despite ongoing written and telephonic communications. They have
 17 also insisted on **telephonic-only meet-and-confers** despite Plaintiff's documented medical
 18 conditions and fears that defense counsel will misrepresent Plaintiff's statements (having emails
 19 of the meet and confers ensures there is no misrepresentation). This violates the spirit of **Fed. R.**
 20 **Civ. P. 37(a)(1)** and undermines meaningful cooperation. See *Swenson v. Geico Cas. Co.*, 336
 21 F.R.D. 206, 209 (D. Nev. 2020); *Haines v. Kerner*, 404 U.S. 519 (1972).

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 25 **IV. CLARIFICATION REGARDING MEET-AND-CONFER REQUIREMENTS**

26 Plaintiff further requests that the Court confirm parties may satisfy the **Rule 37 meet-and-confer**
 27 **requirement via email, recorded Zoom, or similar documented means**, especially where
 28 PLEADING TITLE - 3

1 health accommodations are warranted or where real-time verbal communication is impracticable.
2 This would avoid further disputes while maintaining transparency and compliance.
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5 **V. REQUEST FOR RELIEF**

6 Plaintiff respectfully requests the Court:

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- 8 1. **Deny Defendants' motion** to prohibit audiovisual recording of depositions (ECF No.
9 90);
- 10 2. **Confirm Plaintiff's right** under Fed. R. Civ. P. 30(b)(3)(A) to personally record
11 depositions by video, using a tripod-mounted camera;
- 12 3. **Clarify that post-litigation publication** of deposition recordings is permissible under
13 the current protective order;
- 14 4. **Authorize documented meet-and-confers** via email, Zoom, or other flexible means to
15 satisfy Rule 37 obligations, particularly in light of Plaintiff's pro se status and medical
16 limitations;
- 17 5. **Award any further relief** the Court deems just and proper.

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19 Plaintiff further affirms that he will comply with all court-imposed conditions regarding
20 redactions, confidentiality, or technical procedures.
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24 **VI. CONCLUSION**

25 Defendants have failed to demonstrate any legitimate legal or factual basis to block audiovisual
26 recording. Their motion is part of a broader effort to obstruct discovery and suppress Plaintiff's
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1 press rights. The Court should deny the motion and affirm Plaintiff's procedural and
2 constitutional rights.

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5 **DATED:** May 8, 2025

6 Respectfully submitted,

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8 /s/ **Drew Ribar**

9 DREW RIBAR, Pro Se

10 3480 Pershing Ln.

11
12 Washoe Valley, NV 89704

13 Const2Audit@gmail.com

14 775-223-7899

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